IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.135 OF 2006
IN
NOTICE OF MOTION NO.34 OF 2005
IN
SUIT NO.1558 OF 2004

Abid Bahadur Choudhary ..Appellant.

Vs.

M/s.Tyabji Estates Pvt. Ltd. & Anr. ..Respondents.

Mr.Kamal Bulchandani with Mr.Subhash Jha i/b.M/s.Law Global for the Appellant.

Mr.M.S.Doctor i/b.M/s.Federal & Rashmikant for Respondent Nos.1 and 2.

Mr.D.R.Dhurat, 1st Asstt. to the Court Receiver present.

**CORAM: DR.S.RADHAKRISHNAN AND S.J. VAZIFDAR, JJ.**

**DATED: 5TH APRIL, 2006**

**P.C. :**

Appeal is admitted. The Respondents waive service. Appeal is taken up for final hearing. Having regard to the facts and circumstances of the case, we pass the following order. The parties do not insist on reasons for the order being passed.

2. The impugned order dated 20th January, 2006 is

modified as under :

a) The Court Receiver, High Court, Bombay is appointed as a Receiver of the suit property shown in green colour in the rough sketch annexed as Exhibit "B" to the Plaint forming part of larger property described in the Schedule annexed as Exhibit "A" to the Plaint at page 119 of the Appeal Paper Book with all powers under Order XL Rule 1 of the Code of Civil Procedure, 1908.

b) The Receiver shall take formal possession of the suit property and will not dispossess any person found in occupation of any structure on the suit property as on the date of the Commissioner’s visit on 8th January, 2005.

c) The Receiver shall appoint the occupant/any one of the occupants of each structure as his agent on the usual aterms and conditions.

d) The Receiver shall nominate security guards to be jointly appointed by the Appellants and the Respondents to safeguard the suit property. Two security guards per shift shall be appointed. The Security Guards Agency shall execute indemnity in favour of the Court Receiver as per terms and conditions settled by the Court Receiver.

e) The Appellants and the Respondents shall bear the cost and expenses of the security guards equally, subject to final orders at the hearing of the suit.

f) The Receiver shall permit the Respondents to construct the boundary wall on the suit property after obtaining necessary sanction in that regard from the Municipal Corporation of Brihanmumbai. The same shall not affect the possession of the persons or the structures in their possession

as per clause (b) above.

3. The above order is without prejudice to the rights and contentions of all the parties including the Appellant’s contention that he is the lessee of the property.

4. Appeal is disposed of in the above mentioned terms.

**(DR.S.RADHAKRISHNAN, J.)**

**(S.J. VAZIFDAR, J.)**